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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fifth session

SUMMARY RECORD OF THE 1069th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 19 August 1994, at 10 a.m.

Chairman: Mr. GARVALOV

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Closure of the session

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GE.94-18714 (E)

The meeting was called to order at 10.10 a.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 6) (continued)

Draft letter by the Chairman of the Committee to the Minister for Foreign Affairs of Mexico (continued)

1. Mr. FERRERO COSTA said that he could not agree that the draft letter should be sent as it stood because it was not a true reflection of the Committee's views and decisions.

2. Mr. LECHUGA HEVIA said that he fully agreed with Mr. Ferrero Costa. He therefore suggested that the Committee should postpone any decision on the content of the letter until the forty-sixth session.

3. Mr. WOLFRUM said that the consideration of the situation of Mexico, including the draft letter, should be postponed until the next session.

4. Following a procedural discussion in which Mr. SHERIFIS, Mr. van BOVEN, Mr. SHAHI, Mr. LECHUGA HEVIA, Mrs. SADIQ ALI and Mr. RECHETOV took part, the CHAIRMAN said that, if there was no objection, he would take it that the Committee decided to postpone the consideration of the situation of Mexico and the draft letter until the forty-sixth session.

5. It was so decided.

ANNUAL REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY (CERD/C/45/CRP.1 and Add.1 to 20 and Add.22 to 27; CERD/C/45/CRP.1 (part II); CERD/C/45/CRP.2) (agenda item 10)

6. The CHAIRMAN invited the Committee to consider the draft report of the Committee prepared by Mr. Banton, the Rapporteur. He proposed that the Committee should consider each document as a whole.

Document CERD/C/45/CRP.1 - Chapter I: Organizational and related matters

7. Document CERD/C/45/CRP.1 was adopted.

Document CERD/C/45/CRP.1/Add.1-3 - Chapter II: Prevention of racial discrimination, including early warning and urgent procedures (Federal Republic of Yugoslavia, Croatia)

8. Mr. DIACONU said that paragraph 8 should be amended to refer specifically to the proposals on the normalization of education and health services made by the Good Offices Mission.

9. Mr. WOLFRUM suggested that the words "a number of specific steps to be taken with a view to normalizing the situation in Kosovo" should be amended to read "that a number of specific steps, in particular in the educational and medical fields, should be taken ...".

10. Mr. RECHETOV said that he could support the amendment by Mr. Wolfrum if the words "in particular in the educational and medical fields" were amended to read: "... in particular in education and the field of health care".

11. The CHAIRMAN said he took it that the Committee decided to adopt the proposed amendments.

12. It was so decided.

13. Document CERD/C/45/CRP.1/Add.1-3, as amended, was adopted.

Document CERD/C/45/CRP.1/Add.4 - Chapter II: Prevention of racial discrimination, including early warning and urgent procedures (Burundi, Rwanda)

14. Mr. DIACONU said that the document focused only on the work done at the forty-fourth session and should therefore be amended to include details of the Committee's discussions at the current session.

15. The CHAIRMAN suggested that the following new paragraph should be added at the end of the document: "The Committee continued considering this case at its August 1994 session".

16. Mrs. SADIQ ALI said that the references to the Country Rapporteur in paragraphs 25 and 26 should be deleted to ensure conformity with other parts of the draft report.

17. Mr. BANTON, Rapporteur, said that he did not object to the deletion of the references to the Country Rapporteur and would make the necessary drafting changes.

18. The CHAIRMAN said that he took it that the amendments and drafting changes were acceptable to the Committee.

19. It was so decided.

20. Document CERD/C/45/CRP.1/Add.4, as amended, was adopted.

Document CERD/C/45/CRP.1/Add.5 - Chapter II: Prevention of racial discrimination including early warning and urgent procedures (Israel)

21. Mr. RECHETOV, repeating the opinion he had expressed during the discussion in closed meeting, said that some of the wording of the concluding observations on Israel might be used to hamper the process of peaceful settlement in the region.

22. Document CERD/C/45/CRP.1/Add.5 was adopted.

Document CERD/C/45/CRP.1/Add.6 - Chapter II: Prevention of racial discrimination, including early warning and urgent procedures (Papua New Guinea)

23. Document CERD/C/45/CRP.1/Add.6 was adopted.

Document CERD/C/45/CRP.1/Add.7 - Chapter II: Prevention of racial discrimination, including early warning and urgent procedures

24. Mr. LECHUGA HEVIA said that paragraph 1 should be amended to take account of the Committee's earlier decision to defer its consideration of the draft letter to the Minister for Foreign Affairs of Mexico.

25. The CHAIRMAN suggested that the words "noting with concern" in the first sentence should be replaced by the word "about".

26. Mr. BANTON said that the words "referred to" in the second sentence should be replaced by the words "was to refer to the".

27. Mr. FERRERO COSTA suggested that the last sentence should be deleted.

28. It was so decided.

29. Mr. SHAHI proposed that, in the first sentence of paragraph 3, the words ", such as the Security Council," should be inserted after the words "United Nations organs" since particular mention had been made of that body during the discussion.

30. It was so decided.

31. Document CERD/C/45/CRP.1/Add.7, as amended, was adopted.

Document CERD/C/45/CRP.1/Add.8 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (France)

32. Document CERD/C/45/CRP.1/Add.8 was adopted.

Document CERD/C/45/CRP.1/Add.9 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Tunisia, Sweden)

33. Document CERD/C/45/CRP.1/Add.9 was adopted.

Document CERD/C/45/CRP.1/Add.10 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Morocco)

34. Document CERD/C/45/CRP.1/Add.10 was adopted.

Document CERD/C/45/CRP.1/Add.11 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Norway)

35. Document CERD/C/45/CRP.1/Add.11 was adopted.

Document CERD/C/45/CRP.1/Add.12 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Mauritius, Mali, Barbados, United Arab Emirates)

36. Mr. AHMADU suggested that the words "as a result of a decision of the High Court" should be deleted at the end of paragraph 16 since he understood that there were two courts, the Court of Appeal and the High Court, to which appeal could be made in Barbados.

37. It was so decided.

38. Document CERD/C/45/CRP.1/Add.12, as amended, was adopted.

Document CERD/C/45/CRP.1/Add.13 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Canada)

39. Document CERD/C/45/CRP.1/Add.13 was adopted.

Document CERD/C/45/CRP.1/Add.14 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Senegal)

40. Document CERD/45/CRP.1/Add.14 was adopted.

Document CERD/C/45/CRP.1/Add.15 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Egypt)

41. Document CERD/C/45/CRP.1/Add.15 was adopted.

Document CERD/C/45/CRP.1/Add.16 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Iceland)

42. The CHAIRMAN suggested that the word "recruits" in paragraph 7 should be replaced by the word "servicemen", the word used in the newspaper article in question.

43. It was so decided.

44. Document CERD/C/45/CRP.1/Add.16, as amended, was adopted.

Document CERD/C/45/CRP.1/Add.17 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Luxembourg)

45. Document CERD/C/45/CRP.1/Add.17 was adopted.

Document CERD/C/45/CRP.1/Add.18 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Sudan)

46. Mr. SHAHI said that, during the Committee's discussion of the concluding observations on Sudan, he had wanted to make an amendment to the first sentence of what was now paragraph 10, in which concern had been expressed over the application of legal guarantees in actual practice to prevent racial discrimination with respect to a number of fundamental freedoms, including the right to choose one's religion. He had felt that, since the representative of Sudan had made an important statement marking a departure from the position previously adopted by that country, the Committee's attitude towards it should be one of encouragement and conciliation rather than one of censure and confrontation. Sudan had acknowledged in its report that it was a multireligious, multicultural society and had shown its support for freedom of thought, expression and worship. Those were significant changes and he considered that the Committee should use courteous and diplomatic language in indicating that the laws of Sudan should be brought into line with the Convention. To that end, he had suggested that the sentence concerned should be moved from the section entitled "Principal subjects of concern" to that entitled "Suggestions and recommendations" and reworded as a recommendation by the Committee that Sudan should enact such legal guarantees. Owing to pressure of time, however, other members of the Committee had not fully understood the full import of his proposal, which was merely to move and soften, but not to delete the sentence, and, as a result the vote had gone against it. He was not at present pressing for any change in the text as adopted, but he continued to be unable to associate himself with it as it stood.

47. As far as the facts were concerned, he understood that non-Muslims in Sudan were not precluded from choosing their own religion or changing it. In the case of Muslims - and Muslims alone - the question was an extremely explosive and sensitive one in all Muslim societies. That was why he had considered, in view of the change of attitude by Sudan, that more diplomatic language should have been used. After all, justified harsh language had been softened in the interests of diplomacy in the case of other States. He found it hard to believe that the Committee would take such a stance with respect to certain countries only. The Committee should be sensitive to the fact that all countries could not be expected to be carbon copies of the Western model. For example, a number of Asian countries at the World Conference on Human Rights had expressed the view that Western values were being imposed on them and that the Western tradition of individualism and individual rights was not always appropriate to their tradition of the community and of the individual as a member of that community with obligations towards it. Care should be taken not to take issue too strongly on matters affecting such philosophical and ideological questions, since treaty bodies would be unable to solve them.

48. Mr. AHMADU said that he fully endorsed Mr. Shahi's comments. He had serious misgivings about the Committee's approach to the reporting State. It should have been more encouraging and sympathetic towards a State which had departed significantly from its past practice of failing to submit reports by sending a high-level delegation seeking dialogue with the Committee. More should have been said in the report about the positive steps taken and

reported by Sudan. Regarding paragraph 10 of the Committee's concluding observations and the question of freedom to choose and to change one's religion, although society might reprove those who changed their religion, he pointed out that there was no State interference in that regard.

49. By way of more general comment, he drew attention to what appeared to be anti-Islamic feeling in the Committee, which treated reports from Muslim countries differently from others. Informal contacts he had had with the representatives of Sudan and other countries had revealed that they felt the Committee was putting them on trial. The Committee should not base its discussion of reports of States parties on yardsticks that applied to developed countries, but should take a wider view, and possibly consider whether different yardsticks might apply to different countries.

50. The CHAIRMAN said that the very important matter raised by Mr. Shahi and Mr. Ahmadu deserved fuller attention than could be given it at the current stage in the Committee's proceedings. He therefore proposed that the matter should be included as a special item on the agenda of the Committee's spring session.

51. It was so decided.

52. Mr. van BOVEN said that he endorsed the Chairman's proposal that the Committee should consider the very fundamental issue of the yardsticks it should apply when considering the reports of States parties, especially in the light of the suggestion that such yardsticks might differ.

53. Mr. WOLFRUM, supporting the Chairman's proposal, said that it was important to set aside time to discuss not only the issues raised by Mr. Ahmadu, but also the Committee's possibly different perceptions of its interpretation of article 1 of the Convention and to what extent different States merited different treatment.

54. He agreed with Mr. Shahi and Mr. Ahmadu that the information provided by Sudan that it was a multiracial, multireligious and multicultural society did indeed denote a significant change in policy, which had not been reflected in the report. The Rapporteur might wish to propose some wording to make good that omission.

55. Mr. YUTZIS said that he supported the Chairman's proposal that the matter should be discussed fully at the next session. He also endorsed Mr. Wolfrum's comment that Sudan's explicit reference to its society as being multiracial, multireligious and multicultural signalled a change in perception and should be reflected in the report.

56. Mr. BANTON, Rapporteur, proposed that the beginning of paragraph 6 should read: "The members of the Committee noted with appreciation the statement in the report that Sudan is a multiracial, multireligious and multicultural society and certain other very positive trends. They thanked the delegation of Sudan ...", the remainder of the paragraph being unchanged.

57. Mr. YUTZIS proposed that the words "and certain other very positive trends" should be deleted because they were too vague.

58. The CHAIRMAN said he took it that the Committee agreed to the amendment by Mr. Banton as subamended by Mr. Yutzis.

59. Document CERD/C/45/CRP.1/Add.18, as amended, was adopted.

Document CERD/C/45/CRP.1/Add.19 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Spain)

60. Mr. FERRERO COSTA proposed that paragraph 6 should be brought more closely into line with the Committee's concluding observations on the report of Spain. It should therefore be amended to read:

> "The members of the Committee regretted the lack of information on the implementation of the provisions of article 5 of the Convention. Concern was expressed about de facto discrimination against members of the Gypsy community in the spheres of housing, education and employment, and against migrant workers and foreign nationals in general. In connection with article 5 of the Convention, information was also requested on specific reported cases of racial discrimination in daily life and on the implementation of ILO Convention No. 111."

61. In the first sentence of paragraph 9, he proposed that the word "seriously" should be deleted.

62. In order to reflect what the representative of Spain had said about the next periodic report, he proposed that the words "to be submitted before the next session of the Committee" should be added at the end of paragraph 17.

63. The CHAIRMAN proposed that, since the representative had in fact promised the report by the next session, the amendment might read: "which was promised to be submitted before the next session of the Committee".

64. It was so decided.

65. Document CERD/C/45/CRP.1/Add.19, as amended, was adopted.

Document CERD/C/45/CRP.1/Add.20 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Australia)

66. Document CERD/C/45/CRP.1/Add.20 was adopted.

Document CERD/C/45/CRP.1/Add.21 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Bolivia, El Salvador)

67. The CHAIRMAN said that document CERD/C/45/CRP.1/Add.21 was not before the Committee because the consideration of the reports of Bolivia and El Salvador had been postponed until the next session.

Document CERD/C/45/CRP.1/Add.22 - Chapter III: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Chad, Afghanistan)

68. Mr. de GOUTTES recalled that the Committee had made some changes in the draft concluding observations on Chad which should also be reflected in the report. He therefore suggested that paragraph 3 should be amended to read: "The Committee expressed concern at reports that tensions between ethnic groups were continuing in Chad, that the use of force by the authorities was frequent, that violent acts were being committed by the security forces, including the force made up of members of the President's ethnic group ...".

69. Paragraph 4 should be amended to read: "The Committee expressed concern over the reports of impunity enjoyed by perpetrators of human rights violations ...". The second sentence should be deleted and replaced by the following: "It also expressed concern about reports of paralysis of the administration and the justice system".

70. Paragraph 5 should be amended to read: "The members of the Committee took note with satisfaction of reports that international ...".

71. It was so decided.

72. Document CERD/C/45/CRP.1/Add.22, as amended, was adopted.

Document CERD/C/45/CRP.1/Add.23 - Chapter IV: Consideration of communications under article 14 of the Convention

73. Document CERD/C/45/CRP.1/Add.23 was adopted.

Document CERD/C/45/CRP.1/Add.24 - Chapter V: Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention

74. Document CERD/C/45/CRP.1/Add.24 was adopted.

Document CERD/C/45/CRP.1/Add.25 - Chapter VI: Action by the General Assembly at its forty-eighth session

75. Mr. FERRERO COSTA suggested that paragraph 3 should be amended to read: "The members of the Committee welcomed the support expressed by the General Assembly for the work of the Committee ...".

76. It was so decided.

77. Document CERD/C/45/CRP.1/Add.25, as amended, was adopted.

Document CERD/C/45/CRP.1/Add.26 - Chapter VII: Submission of reports by States parties under article 9 of the Convention

78. Document CERD/C/45/CRP.1/Add.26 was adopted.

Document CERD/C/45/CRP.1/Add.27 - Chapter VIII: Third Decade to Combat Racism and Racial Discrimination

79. Mr. BANTON, Rapporteur, suggested that the following sentence should be added at the end of paragraph 3 concerning relations with the Sub-Commission on Prevention of Discrimination and Protection of Minorities: "The two Bureaux met together on 18 August to plan future collaboration".

80. The CHAIRMAN suggested that more details of the meeting should be included.

81. After a discussion in which Mr. AHMADU, Mr. WOLFRUM and Mr. FERRERO COSTA took part, Mr. BANTON, Rapporteur, supported by Mr. de GOUTTES, suggested that the following wording might be adopted: "The two Bureaux met together on 18 August to plan a joint meeting of the two bodies in August 1995".

82. It was so decided.

83. Document CERD/C/45/CRP.1/Add.27, as amended, was adopted.

Document CERD/C/45/CRP.1 (Part II) - Chapter I: Organizational and related matters

84. Mr. DIACONU suggested that paragraph 2 should be divided after the second sentence so that paragraph 2 would refer to the Committee's contacts with the Assistant Secretary-General for Human Rights and the new paragraph 3 would refer to the Committee's contacts with the High Commissioner for Human Rights. The other paragraphs would then be renumbered accordingly.

85. Document CERD/C/45/CRP.1 (Part II), as amended, was adopted.

Document CERD/C/45/CRP.2 - Annex I

86. Document CERD/C/45/CRP.2 was adopted.

87. The draft report, as a whole, as amended, was adopted.

DRAFT LETTER TO THE SECRETARY-GENERAL

88. The CHAIRMAN said the Committee had before it a draft letter in English to be sent to the Secretary-General. The text of the draft letter read:

"LETTER OF TRANSMITTAL

Dear Mr. Secretary-General,

The Committee's report for 1993 detailed the action it had taken in response to the invitation to consider ways to bring to your attention massive violations of human rights (A/48/18, annex III). During 1994 the Committee has utilized its new procedures to send good offices missions to the Federal Republic of Yugoslavia (Serbia and Montenegro) and

Croatia, to conduct reviews of the situations in Burundi and Rwanda and to request additional information from Israel. These actions are described in the body of this report.

In our review of the implementation of the Convention in Rwanda, conducted on 9 March 1994, the Committee took note of the findings in the Rapport de la Commission Internationale d'Enquête sur les violations des droits de l'homme au Rwanda depuis le 1er Octobre 1990, published twelve months earlier. Subsequent events have proven the accuracy of that report's diagnosis of the threats to peace in Rwanda. The Commission's recommendations were well-judged, but they received too little support from the international community - with results that have been only too tragic. Subsequent events in Rwanda have also demonstrated that it would be cheaper and more effective to take preventive action before open hostilities break out. Procedures for early warning and urgent action desperately need improvement.

The World Conference on Human Rights recommended that treaty bodies and other organs review reporting procedures in order, by better coordination, to improve their efficiency and effectiveness (Vienna Declaration, paras. 87-89). The Committee on the Elimination of Racial Discrimination regularly reviews its working methods with these objectives in mind. It plans its timetable so as to respond expeditiously to the periodic reports submitted by States parties. During 1994 it considered 32 reports submitted by 18 States parties. The Committee uses its powers to call for additional information when concerned about current developments, as described above. The Committee was the pioneer in devising a procedure to review implementation of the Convention in States which were seriously overdue in the submission of reports; this year it has conducted such reviews in respect of six States. There is currently no backlog of reports still awaiting consideration because of any delay for which the Committee is responsible.

As part of the review of its procedures, the Committee has this year modified the structure of its report to the General Assembly. Since we believe that the prevention of racial discrimination should receive priority in our work, we have brought this section forward to chapter II. We have changed the sequence of certain chapters so that matters of substance come before matters of a formal nature.

The Committee has discussed the question of succession to treaty obligations arising from the dissolution of States, and has written to those States of the former USSR which have not so far declared their adherence to the Convention (see annex ...).

In 1991 the Committee decided that it would in future adopt 'concluding observations' expressing the collective view reached as a result of the examination of a State party's report. Circumstances differ very much from one State to another, but the Committee has nevertheless to treat all States equally. This has made the drafting of concluding observations a very time-consuming process. Originally they were seen as conclusions to the summary of the dialogue with the State

that features in the annual report published each October; but interest in these observations is greatest just after a report has been examined, and this may have been in March. The Committee has therefore agreed that its concluding observations be made available at the end of each session and that they must be comprehensible to readers who do not have before them the text that will precede these observations in the annual report. So the Committee decided at its forty-fourth session that these concluding observations should have two main sections: 'principal subjects of concern' will reflect members' questions and comments; while 'suggestions and recommendations' will express only collective views.

In response to an individual communication which raised the question of possible bias on the part of a juror, the Committee adopted an opinion which is reproduced in annex ... .

Finally, Sir, I take pleasure in mentioning one of the most hopeful events of the past year, the installation of a new and democratic Government in South Africa. The general revulsion from segregationist policies in southern Africa was one of the forces that led in 1965 to the adoption of the International Convention on the Elimination of All Forms of Racial Discrimination. The ending of apartheid does not mean that the Convention's goals have been attained. Racial discrimination as defined in the Convention can occur anywhere in the world. Events referred to earlier in this letter, and at greater length in the body of the report, show that action against racial discrimination needs to remain one of the priorities for the United Nations."

89. Mr. BANTON, Rapporteur, said that, in the first paragraph, the second sentence should be amended to read: "... the situations in Burundi and Rwanda and to request additional information from Israel and, in different terms, from Argentina and the United Kingdom. These actions are described in chapter II".

90. The words "cheaper and" should be deleted in the penultimate sentence of the second paragraph.

91. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee decided to approve the draft letter to the Secretary-General.

92. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Dates of the Committee's spring session

93. Mr. DIACONU asked the representative of the Secretary-General to consider the possibility, sometime in the future, of changing the dates of the Committee's spring session so that it did not coincide with the session of the Commission on Human Rights. He had discussed the matter informally with the Conference Services Division and there seemed to be no problem on that side.

94. Mr. FERRERO COSTA recalled that members had commitments other than the Committee and might not be able to attend if the session were not held in March.

95. The CHAIRMAN said that the dates for the next session were already fixed, but the secretariat would consider whether they might be changed for future sessions.

Appointment of country rapporteurs

96. The CHAIRMAN said that a country rapporteur had been informally appointed to oversee each of the reports due for consideration at the Committee's forty-sixth session in March 1995. The list was the following:

Romania	Mr. Valencia Rodriguez
Italy	Mr. de Gouttes
Cyprus	Mr. Rechetov
Guatemala	Mr. Yutzis
Peru	Mr. Wolfrum
Trinidad and Tobago	Mr. Chigovera
Sri Lanka	Mrs. Sadiq Ali
Nicaragua	Mr. Ferrero Costa
United Republic of Tanzania	Mr. Garvalov
Cambodia	Mr. Yutzis
Nigeria	Mrs. Sadiq Ali
El Salvador	Mr. Wolfrum

97. If he heard no objection, he would take it that the Committee decided to approve those appointments.

98. It was so decided.

CLOSURE OF THE SESSION

99. After the customary exchange of courtesies, the CHAIRMAN declared the session closed.

The meeting rose at 1.10 p.m.